

REMARKS

Applicant respectfully traverses and requests reconsideration.

Applicant wishes to thank the Examiner for the notice that claims 1, 3-6, 8-11, 14, 16-17, 22 and 24-25 are allowed and that claims 7, 13 and 15 stand objected to for informalities based on their dependency.

Claims 1, 3, 7-11, 13-17 and 22 have been amended to correct typographical errors. Claims 7, 13 and 15 have also been amended to correct the reference to the base claim upon which claims 7, 13 and 15 depend. Claim 26 has been amended to include inherent language and to provide antecedent support for the term “the compare pixel values”. Claims 18-21 have been cancelled without prejudice. Claims 27-30 have been added. Support for the new claims is found at least in paragraph 27 of the originally-filed application. No new matter is believed to have been added.

Claim 26 stands rejected under 35 U.S.C. § 112, second paragraph, as failing to set forth the subject matter which Applicant regards as the invention. The current Office action states, in relevant part, that:

In [Applicant’s originally-filed application], applicant has stated in the algorithm listed and described in paragraphs 0032+ that the new center pixel value is based on the *count* value and the *accumulation* value *without* using the older center pixel value, and this statement indicates that the invention is different from what is defined in the claim because claim 26 states that the output center pixel value is based on the *compare pixel* values *without* using the center pixel value. [The claim] differs from the teachings within the specification which require that the accumulation of values be the accumulation of pixel values that are being compared and not the actual difference values (compare pixel values) that claim 26 appears to be referring to. In fact it appears that the invention will not perform the desired enhancement with the language of claim 26 since it will only replace the value of the center pixel with an average of the difference values and not average pixel value. (Office action, pp. 2-3; emphasis in original).

Applicants note that the above characterization of the specification is improper based on the face of the originally-filed application. Further, Applicant notes that the above rejection is improper based on MPEP § 2172 which states that “agreement, or lack thereof, between the claims and the specification is properly considered only with respect to 35 U.S.C. § 112, first paragraph; it is irrelevant to compliance with the second paragraph of that section.” (MPEP § 2172(II)).

Addressing the Examiner’s statement that the specification allegedly requires the accumulation of values to be the accumulation of pixel values that are being compared and not the actual difference values (compare pixel values), Applicant directs the Examiner’s attention to the following portions of the originally-filed application:

(¶17): “In one embodiment, ... the accumulator may be incremented by the compare pixel value.” (Emphasis added).

(¶22): “The comparator 112 provides the compare pixel value 130 to the accumulator 116.”

(¶23): “The accumulator 116 accumulates, or in one embodiment, may continually add or update the newly received compare pixel value 130 with a previously-stored value within the accumulator 116. ... Therefore, the accumulator 116 keeps an accumulation value of the compare pixel values.” (Emphasis added)

(¶43): “As discussed above, in one embodiment, ... the accumulation value may be incremented by the value of the compare pixel value.”

For at least these reasons, the Examiner’s characterization of the specification cannot stand and the rejection is improper.

Moreover, the rejection plainly ignores the requirements of the Manual of Patent Examining Procedures. Section 2172 of the MPEP states, in relevant part, that a “rejection based on the failure to satisfy [35 U.S.C. § 112, ¶ 2] is appropriate only where applicant has stated, somewhere other than in the application as filed, that the invention is something different from what is defined by the claims. In other words, the invention set forth in the claims must be

presumed, in the absence of evidence to the contrary, to be that which applicants regard as their invention.” (MPEP § 2172(II), emphasis added). “[A]greement, or lack thereof, between the claims and the specification is properly considered only with respect to 35 U.S.C. § 112, first paragraph; it is irrelevant to compliance with the second paragraph of that section.” (MPEP § 2172 (II), emphasis added). “The second paragraph of 35 U.S.C. § 112 does not prohibit applications from changing what they regard as their invention during the pendency of the application.” (MPEP § 2172(III)). Because the rejection contradicts the requirements of the MPEP with respect to 35 U.S.C. § 112, ¶ 2, the rejection is also improper and must be withdrawn.

Claims 18-21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,195,467 to Chan in view of U.S. Publication No. 2003/0156301 to Kempf et al. in further view of U.S. Patent No. 7,031,551 to Yano et al. While Applicant disagrees with the above rejection, Applicant has cancelled claims 18-21 without prejudice to advance prosecution. Accordingly, this rejection should be withdrawn.

New claims 27-30 have been added. Applicants are unable to find any teaching in the cited publications that indicates that each of the center pixel value and the plurality of pixel values is associated with a single component of the color model, wherein each of the center pixel and the plurality of perimeter pixels is associated with a color model having multiple components. For at least this reason, and because claims 27-30 are dependent upon allowable base claims, the aforementioned claims are believed to be in proper condition for allowance.

Accordingly, Applicant respectfully submits that the claims are in condition for allowance and that a timely Notice of Allowance be issued in this case. The Examiner is invited to contact the below-listed attorney if the Examiner believes that a telephone conference will advance the prosecution of this application.

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Vedder Price P.C.
222 N. LaSalle Street
Chicago, IL 60601
(312) 609-7500
FAX: (312) 609-5005

Respectfully submitted,

By: Christopher J. Reckamp/
Christopher J. Reckamp
Registration No. 34,414